

SECESSION RESISTED. 1861.



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PHILADELPHIA:
KING & BAIRD, No. 607 SANSON STREET.

1861.

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SECESSION has been made the subject of discussion between persons residing in opposite parts of the country, as presenting a question of right or wrong. Among those who are desirous of maintaining unimpaired the public good, there is believed to be no doubt of its being the parent of mischief, and the companion of treason. They on the other hand who attempt to justify or excuse it are principally engaged in open rebellion. It is scarcely probable that further argument would produce a change of sentiment where from such causes it is entertained on the one side or the other, and we dwell for a moment only on the abstract question. A difference so serious, now fixed with seeming firmness in practical hostility, is connected with a broader conflict of construction, which in mere theory has done no great harm. The advocates of secession say that the Constitution was formed by *States*, to which they impute a sovereign capacity; and that the government of which it is the supreme law, is not a government of the people. Unless they can establish these doctrines, they have little ground for claiming a right to secede, and they

are not understood to uphold the one except in connection with the other. This pretended right is asserted for one or more States, separately or collected. It is necessary for them to prove that they came in in that supposed sovereign capacity, for which there is no warrent in the Constitution even by the use of the terms, in order that they may exercise in departure, the same power that brought them together. The necessity of such proof is either expressly admitted, or it forms so universally a part of the Southern creed that it is vital to their cause. In opposition to this doctrine we have first the very words of the Constitution "We the people." Next, the object of the convention, which was to remedy the evils of Confederation, now revived in the movement of secession. Thirdly, the clear interpretation of learned jurists who died long before the present controversy began. Nothing can be regarded as settled, if this point be still open. The engagement, too, at the beginning was express, that the Union should be perpetual. It might well be insisted on that in the absence of any such stipulation, this would have been the necessary result from the nature of things. An agreement to the contrary, or one providing for separation, would be required for the opposite effect.

Although it would be difficult to find in all history a government so stable in principles, and so united in purposes as ours, yet precedent is not wanting in a

*State Sovereignty depends on a
free State & Senators.*

less closely cemented junction of Commonwealths. Our recent historians have made us familiar with the heart of Europe of a former day, and particularly with the eventful career of the Netherlands. Prescott, in his Philip II., says that the people of Brabant, the province of which the then great city of the European world, Antwerp, was the thriving capital, were so jealous of their liberties that in the oath of allegiance to their sovereign on his accession, it was provided that this allegiance might be lawfully withheld whenever he ceased to respect their privileges. (I Vol. 371.) Express provision, sound authority, and the actual absence of reserved right according to historic precedent, all concur in favor of perpetuity for the Union, and against the worse than absurd doctrine of voluntary departure from it.

Much that has been thus presented, will be found in the valuable publications lately given to the cause of the Union. Our remarks have been made as preliminary to certain views beyond the mere fact of secession, and broadly opened by that ill-fated measure. However plain the principle which denies all excuse to what has been done, the mere departure of the States from allegiance, probably never would have been opposed by force of arms. No such object is embraced in the present controversy fierce as it undoubtedly is, and long continued as it threatens to be. War was reluctantly embraced by the government, only as one branch of an alternative, that pre-

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sented dishonor and loss of life and property by ferocious plunder on the one hand—and resistance and armed defence on the other. The last branch of the alternative is embraced, and it explains the whole theory of the cause and contest in which we are engaged. War is undoubtedly carried on. The general government is engaged in it—actively, at great expense of treasure and life. The part which it is performing is greatly misunderstood. It is grossly misrepresented by the enemy, and misconceived by strangers. This war is met we trust manfully, for the purposes of defence and resistance. Hostilities were, after much preparation and without formal announcement, not only opened by the other side, but opened with outrage and wrong. They have been carried on without regard to the rules and practices of civilized nations, and with plunder, fraud, and cruel wanton and unnecessary murder. They began at Fort Sumter without provocation or notice, and they have carried out their preconcerted designs without remorse. This was the beginning of flagrant war. As early as October, Genl. Scott appealed to the then President to strengthen the garrison. The newly appointed Secretary of War, who succeeded in that place the well remembered Floyd, in his official letter of February 18th, 1861, which has been only the other day, made public in consequence of a call from the House of Representatives, uses this expression—“Had the early admonitions which reached

here in regard to the designs of lawless men upon the forts of Charleston harbor, been acted on by sending forward adequate reinforcements before the revolution began, the disastrous political complications that ensued, might not have occurred." When the annual message was sent to Congress, and Floyd was the Secretary of War, (December 3d, 1860,) Mr. Buchanan in blind infatuation or under treasonable influence, while asserting the right of property in the Federal government, and while the thunder of the rebel cannon had been thundering for many weeks in Charleston, declares, "It is not believed that any attempt will be made to expel the United States from this property by force." Where were his ears? Mr. Holt soon afterwards in his letter of 18th February, refers to these excesses as treacheries and ruthless spoliations. "The forts of the United States" he adds, "have been captured and garrisoned, and hostile flags unfurled upon their ramparts. Its arsenals have been seized, and the vast amount of public arms they contained appropriated to the use of the captors; while more than half a million of dollars found in the mint of New Orleans has been unscrupulously applied to replenish the coffers of Louisiana." Washington had not been actually assailed, but it was threatened and endangered, and this was the immediate inducement for the letter of Secretary Holt, of 18th February. He concludes this letter by a reference to the deep dis-

honor which would have been suffered "had the capital, like the forts and arsenals of the South fallen into the hands of the revolutionists, who have found this great government weak, only because in the exhaustless beneficence of its spirit it has refused to strike even in its own defence, lest it should wound the aggressor."

In that defence, it has been compelled, at length, to strike; and we devoutly trust that it will not again refuse, until the aggressor is made sensible of his wrongs and seeks to do all he can in the way of reparation, by restoring his ill-gotten gains and refraining from farther atrocities. The North aroused at last to action is found with one voice and arm in the work of just defence. Even the frigid message of Mr. Buchanan reaches almost to such a possibility. After expressing in the words just quoted his disbelief that any attempt will be made to expel the United States from property by force, he adds, "but if in this I should prove to be mistaken, the officer in command of the forts has received orders to act strictly on the defensive." Fatal did the mistake prove, and ill-timed the reluctant orders.

As the course of treason has developed itself, and the fury of rebellion has been stimulated by successful encroachments, the same rule of defence has been the guide. The North acting upon this principle will strive to maintain the supremacy of the Constitution against the attacks of its enemies. Resistance of the

assaults of treason and defence of property and life and national honor, against plunder and murderous assailants—are the purposes and the practices of the war on the part of the United States. Their proceedings are purely of a defensive character. It was thought by some that the first message of the present President was perhaps over pacific. It was admitted by all to be quite sufficiently kind in its tone. That of the 5th of June was believed to have assumed the armor and attitude of war. If so, it was not a moment too soon. Yet even there he proclaims that the duty of employing the war power was forced upon him in defence of the government. This according to his inauguration oath was to “preserve, protect and defend the Union.” Such has been the true sentiment and the general tendency of the North from the beginning of these troubles. It has been felt by the people everywhere. Resolutions adopted almost unanimously by both Houses of Congress express with emphasis the same thing. They declare that “The war which has been forced upon us is not waged for the purpose of overthrowing or interfering with the rights of established institutions of the Southern States, but to defend and maintain the supremacy of the Constitution and to preserve the Union.”

Notwithstanding such authentic declarations from successive executives, and a specially called Legislature acting almost exclusively for general political

*Apprentice of War
rebel of a war by
secession by U.S.*

purposes, the reverse is insisted on with pertinacity by those who act and speak with partial judgments, and without a local right to decide. It is alleged in southern speeches in Congress and out of it, that the war is pressed on "to the consummation of the subjugation of the Southern States." This war is pronounced a war of subjugation, in other words, that it is intended to coerce or conquer. There is no ground for these charges. They are denied. The imputed intention or desire is disclaimed, and it is disproved by every fact. All defensive war requires occasional local attacks, and if well conceived and executed, the bolder they are, the better. They are made only in anticipation of necessary defence, against assaults of a declared and watchful enemy. They are made sometimes it must be acknowledged too hastily for safety, and as recent events have shown with a rashness inconsistent with wisdom. But in them there is no mark of coercion or intended conquest, they are prompted by motives quite the reverse. It is not even contemplated to convince misguided men of their error and infatuation, in their attempt to secede. This has indeed been more than carried into execution, and if you please so to regard it into accomplishment. It is a war of defence only. Secession of itself is not to be prevented. Its further encroachments and continued wrongs are to be resisted, and it is hoped that they will be with success.

Let the enemy test this question of defence or subjugation. He can soon see whether we desire to subjugate him, or only to sustain ourselves. Let him cease his aggressions on property not belonging to him. Let him abandon the places he has ruthlessly seized. Let him if he can, restore the millions plundered. Let him give up his countless spoils. Let him place every thing as far as he can, in the condition in which it was early in the Autumn; and for what he is now unable to restore, let him give pledges of future, though tardy retribution. These matters are not pretended to have formed a part of any of his plans. The embassy of Commissioners from South Carolina for adjustment, has been referred to with complaints that they were not received! After the principals were engaged in taking all they could by force or fraud, commissioners had nothing to ask but tame acquiescence in wrong. Well might they be content to depart in peace, laden with spoils and presuming upon spiritless submission. The mitred General or helmeted Bishop with his Spartan name, wishes to repose "under his own vine and his own fig tree." He remembers to forget, that both the vine and the fig tree were purchased, together with the ground they stand on, and paid for by the United States. His military conscience may keep watch in rebel contentment, but his religious conscience will be troubled with uneasy dreams. The course he has taken is

It is difficult to the rebels, when their subjugation is the object of the war.

everywhere condemned. Even his neighbor bishop, of Georgia, while invoking a blessing in favor of the confederate government, seems to utter reproof, when he declares in a sermon at the departure of the Pulaski Guards for Virginia, that priests of the sanctuary are not permitted to put on the arms of the warrior.

This war of aggression on one side and defence on the other, has no greater variety in its origin and character North and South, than in the manner in which it is respectively carried on in the same opposite quarters. Speech "bewrayeth" both the temper and the breeding. The language used in the South is unbecoming, whether adopted by leaders or followers, whether in proclamations or newspaper publications. The correspondent of the London Times, in passing from that region towards the other, could not fail to be impressed with this as well as other peculiarities. In a letter dated at Cairo, Illinois, June —, he inserts two specimens of editorial secessionism, one on General Prentiss, whom Mr. Russell describes as a fine-looking gentleman, with a clear liquid blue eye, very agreeable manner, and marked with good taste. It is here inserted in a note at foot, as I am unwilling to give it a place in my text.*

* "There is a man now vegetating at Cairo, by name Prentiss, who is in command of the forces at that point. His qualifications for the command of such a squad of villians and cutthroats are:—he is a miserable hound, a dirty dog, a sociable fellow, a treacherous villain, a notorious thief, a lying blackguard, has served his regular five years in

Manner of Conducting the War.

The other "editorial" purports to describe a Hungarian body of volunteers, who, Mr. Russell says, were "a fine soldierly-looking set of men." This also is given in a note at foot.* It is sufficiently clear that the Times correspondent was forcibly struck with the difference in every thing that partook of civilization, between the part of the country through which he had just journeyed in a state of aggressive rebellion, and that which was preparing for needful defence. Speech, we have ventured to intimate, is often an index to temper and conduct. A cause of hostile action will be found, as nearly as may be, in photograph resemblance to the language quoted literally

the penitentiary, and keeps his hide continually full of Cincinnati whisky, which he buys by the barrel to save money. In him are embodied all the leprous rascalities, and in this living sore the gallows has been cheated of its own. This Prentiss wants our scalp. We have no objection to his having it if he can get it; and we will propose a plan by which he may become possessed of that valuable article. It is this:—Let him select 150 of his best fighting men, or 250 of the lager beer Dutchmen, and we will select 100; then let both parties meet at a given point, where there will be no interruption of the scalping business, and then the longest pole will knock the 'pe simmon.' If he does not accept this proposal he is a coward. We think the above proposition fair and equal."

* "When the bow-legged, wooden-shoed, sourkrout stinking, bologna-sausage-eating, hen-roost, robbing Dutch sons of —— from Cairo had accomplished the brilliant feat of taking down the Secession flag on the river bank, they were pointed to another flag of the same sort, which was flying gloriously and defiantly about two squares distant (and which their guns did not cover,) and defied, yea, double big, black dog dared (as we used to say at school,) to take that flag down. The cowardly pups, the sheep-dogs, the sneaking skunks dare not do so, because those twelve pieces of artillery were not bearing upon it. And these are the people who are sent by Lincoln to 'crush out' the South!"

from the rebel paper. Modern warfare among civilized nations is not a system of cunning and cowardly approaches to unarmed and defenceless men, quietly occupied, with a view to mere brutal murder and revenge. Let the world judge of the sense of honor and propriety of those who can propose, execute, or approve, such savage and barbarous conduct as is disclosed and boasted of in the following article.

“THE DEATH OF MAJOR RAWLINGS.—The Petersburg ‘*Express*’ says :—We have heard from a source entitled to the fullest confidence, that one of the most daring feats of the age was consummated near Newport News, on Friday last, by Confederate soldiers. Ever since the killing of the much-lamented Lieutenant-Colonel CHARLES DREUX, four of his men have resolved to avenge his taking off. With this view, they obtained permission to leave their camp, and providing themselves with several days’ rations, proceeded stealthily through the forests until almost within sight of the camp at Newport News.

“They laid in ambush for five days awaiting an opportunity to avenge the death of their Colonel, but none presented until Friday last. On that day they espied a party of seven Yankees, three of whom were evidently officers, engaged, at a small stream, measuring with lines, and seemingly preparing for the erection of a bridge. They were all unarmed, and the Louisianians resolved that the prey they had so

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long and perseveringly sought should not escape them. Knowing that the report of their guns would alarm the camp not far distant, they speedily determined to rely solely upon the use of their bayonets, and crawling upon their hands and knees to within a convenient distance, they suddenly sprang forward, each man selecting his victim.

"Two officers were killed, but one of them, a Major, not dying at the first thrust, was struck over the head with the butt of a musket until life was extinct. The other five men were secured, one of them severely wounded, and carried into camp at Yorktown. The wounded man proved to be a Captain, and when our informant left Yorktown, it was thought that he would certainly die, having received a severe bayonet stab in his breast, and other cuts in different portions of his body."

Of a piece with this base transaction is an event more recently recited. A small party of residents of the North consisting of three or four men and one female, known only to be quiet strangers, and subject to no other charge, wished to proceed towards their home. The men were stripped naked, and inhumanly beaten and lacerated. The woman was stripped to her waist, and forced to undergo a like bloody castigation. A war thus carried on, well becomes a power that can resort to the expediency of offering a reward of \$20 or \$25 a head for prisoners, whether men,

*On the morning after
of removed for life.*

women or children, taken, dead or alive. This is stated in substance in the British House of Commons on the 15th of July. These various proceedings are all more or less disgraceful to civilization. If war is an honorable and manly system, resorted to only in extreme cases, such as it has been described long ago by Cicero; and military virtue as that great orator says, excels all others, how shamefully is it perverted by acts which are made a subject of boast. Unarmed men are secretly crept on and bayoneted and knocked on the head "with the butt of a musket," and it is a proud exploit.

Such results are scarcely to be wondered at, when the manner in which the ranks are filled is understood. Impressment was once a heartless practice in a great foreign naval service. Here troops of whatever allegiance are forced into the army by illegal and cruel means. It is well known that in New Orleans numbers of British subjects have been rescued from their tyrannous treatment by the interposition of their consul. No matter what the inclination of the individual may be, he is forced if possible into the service which he often abhors, and from which he deserts when he is able. A proud difference in this last fact is found between the different forces. The message of the President, in high official responsibility, asserts that "While in this the Government's hour of trial, large numbers of those in the army and navy who have been favored with the offices, have resigned

and proved false to the hand which pampered them, not one common soldier or sailor is known to have deserted his flag.

While some of the proceedings of the present administration have been severely censured in certain quarters, and a liberal construction is perhaps required in a position of great delicacy and almost entire novelty, a suggestion was made not long since by a few gentlemen of Philadelphia, of the expediency of an unofficial advisory council. This it was thought might properly be found among the persons who occupy in retirement relief from employment as past Presidents of the United States. A meeting was accordingly proposed to take place in the Hall of Independence, with the approval of the Government, from which it was thought that good might result. From whom could the country hope for better advice than from some of those who had been selected by their fellow-citizens for the higher stations, and now enjoyed the advantage of long experience in dignified repose? Some of these gentlemen were addressed on the occasion, and it was believed that the arrangement would be carried into effect. More than one of the public papers, not exactly understanding the object, expressed strong opposition, and for some insufficient reason the project failed. It may still be thought that good would have come from such a measure. Seneca advises to consult a friend on all things, and he considers that grief, as

light which can take counsel. A wiser than Seneca goes still farther. We are taught by Solomon, that "he that hearkeneth unto counsel is wise," (12: 15,) And "with the well advised is wisdom." (3: 10.) And "in multitude of counsellors there is safety." (24: 6.)

With or without external advice, we are bound to treat the constitutional head of the Government with deference, and as a general rule, to conform to his official measures. The result of the last election was an almost immediate rebellion. The candidates of the Republican party were chosen by Northern votes. It is remarkable that the whole South where the bitterest hostility exists, and the present chief magistrate is repudiated, like its debts, must be looked upon as responsible for the fate of the political controversy. In an ill-judging confidence of success the party which has been generally successful divided its strength, and according to a well-known maxim it was conquered. One of the separated candidates misjudged his position which as a candidate for the highest elective office, was one of dignity, and compromised himself and his position by stumping for a vote. It is to be hoped that the bad example may never be followed. Perhaps the exertions of mind and body made by him contributed to his death. The other Democratic candidate has lived, it may be believed, in disappointment, for his career as a senator and a citizen has been a continued effort to thwart legislative proceedings, without a hope of success, and to disturb

public tranquillity by appeals to irregular passions in the people. Cardinal Wolsey would have told him to "fling away ambition," by which sin the angels fell. A third candidate has been no less unhappy. He was sustained in the name of the Union, the Constitution, and the laws; and now, all of these sacred emblems are said to be worse than forfeited by him, for they are bartered for anarchy under a secession flag. His townsman Judge Catron has been driven from Nashville for his loyalty and honor. The fourth among the candidates of November remains untarnished in honor and untouched in power. Whatever may be his alleged mental proportion below the standard of individual greatness, his election was constitutional though sectional, legal and fair though partizan, like many that have gone before it, and it should be constitutionally respected and observed.

Our task would be imperfectly performed if late executive measures, which have been the subject of complaint, not always the consequence of their being well understood, were not carefully looked to and a candid explanation of them made. What are these measures? or, in the first place, who are they from whom the objections to them principally come? These complainants are for the most part persons who having violated the laws and trampled on the constitution, and especially those laws to which they are held amenable, are, it might be supposed, not entitled to be heard before the tribunal of public

*much the untarnished in power
and untouched in power.*

*Substantive
act.
renewed*

opinion. Having relinquished the privileges and protection of the constitution, they are self-outlawed, and cannot claim assistance or relief from a source of authority which they have in utter defiance denied. In abandoning their duty and obedience as citizens they forfeit the correlative of protecting justice, which is lost by such misconduct, as under common circumstances would expose them to punishment if found guilty by due course of law. They remove themselves from arraignment and trial by misconduct. The law cannot hurt them, for they have chosen to go beyond its reach. How can it help them, when they have prevented, by their own act, its exercise? If they say it is a dead letter to them for evil, it is equally so for good. They stand worse than mute according to the old law, and must not expect judgment to be interposed in their behalf, while they withhold all submission to authority.

(1)
Volunteers
called
for

The measure first objected to is, that on the 15th of April, the President by proclamation called for seventy-five thousand men. The objection rests on technical grounds. It is alleged that the steps to be opposed by this armed force arise from States in their sovereign capacity, and that no power exists to coerce a State into obedience to the Federal government.

We deny, as has been already said, both the desire to coerce and the sovereignty of the States. The force called for was wanted to defend the general

government and the body of the people, from unlawful assaults and other misdeeds of armed rebels. These armed rebels claim to represent States, while neither such States nor the individuals who combine to represent them are sustained by any authority known to the constitution or laws. The militia may be called for when occasion requires, to suppress such combinations of individuals to prevent the execution of the laws of the United States. But even that is not the exact or mere cause of the call, or the sole object of the force required. Combinations of individuals *have* prevented the execution of the laws, and are proceeding onward in the attempt. The object is to resist aggression of a positive, active and destructive kind. As long as constructive or actual rebellion confines itself to arrogance of pretension, as an independent power, and claims possession of only what by strained construction it could regard as its own, there is no great danger of force to suppress it. It is to resist continued and further encroachment upon what is ours—our [property, persons, lands, money, goods, and lives. By ours, we mean of course the United States, as we stood before the outbreak of secession, with property and privileges of every kind all over the country, South as well as North. Let these alone and your declarations of secession and even establishments of confederated governments restricted to their own innate powers and fancied prerogatives, will perhaps not

be suppressed or otherwise interfered with. That which is called suppression is nothing but defence. If the individuals who claim unbounded indulgence of will and power abroad and at home, over others as well as themselves, and then hope to find protection under the fallacy of State sovereignty, will restore what they have taken, withdraw their pernicious movements, and abandon all further evil designs, they will suffer nothing from seventy-five thousand, or seventy-five hundred thousand loyal men. They now set at nought and obstruct the laws they have sworn to support in the person of every officer, and they wantonly obstruct the exercise of them with fire and sword. If, indeed, this call for armed men be without sufficient warrant in the constitution or the law, the objection would better come from those, who in that case are irregularly invited to resist traitors, than from the traitors who are to be resisted. They who alone would have a right to object, obey the summons with alacrity and zeal. Let the President's legal call be termed an invitation, offered and accepted with mutual kindness and good will, and the objection as it is presented, vanishes. Every man may shoulder his musket if he likes and may use it in the necessary defence of all that is dear to him and his immediate family alone, or to millions of fellow citizens in common with them.

Might not a body of volunteers on an emergency

rise up to defend their firesides without any call from the President? He may be too distant from the assault for appeal, and countless losses might be sustained by the delay. A gallant defence is not the worse for having authority combined with personal resolution. An immediate necessity may often arise to resist murderous invasion, or savage encroachment, or traitorous assault. Families and neighborhoods must defend themselves on the sudden from such assaults. Who can condemn them? Whether troops thus engaged in honorable and voluntary service shall afterwards be paid, may depend upon the justice of the government. Their actions with or without looking for compensation are surely lawful. Different branches of the government have means of assistance without limit. A court of justice may call out the whole body of the county (the posse comitatus) if occasion requires. Congress may take steps to invoke every body in case of need. Is the Executive to be left at all times without power to "preserve, protect and defend the constitution," according to his inauguration oath?

Next, the constitution is said to be violated by the proclamations of April, which declare a blockade of the Southern ports. Here too the objection comes with a bad grace from the wrong-doers. The old term blockade may be somewhat difficult of application, in their eyes, to the new state of things, which they have engendered. In this respect it can only

(2)
*Blockade
 violates
 Constitution.
 true.*

be said to resemble a constant practice of language which adapts itself of necessity to the progress of civilization, and uses familiar words even when things have somewhat changed. The term is not to be construed by what things were, but by what they are, not to be applied to former and past relations, but to those which are present. The South places itself within and without in a hostile condition. It carries on war fiercely in every possible way. It began in the seaport of Charleston, and sends out from any port it can, its cruizers. While the government denies that the war is a lawful one, and treats the parties as guilty of treason, it employs force without or within against them, and regards their ports exactly as their own choice requires. If they were a foreign people, as they claim to be, it would be a blockade according to the familiar use of the word. In their state of alienation to most purposes, but not admitted to have reached it lawfully, the treatment of them by a blockade is merely adopting the thing and the expression, in the way that they have made necessary. The President is authorized to suppress insurrections. His power to do so is specially enlarged by authority to call out the militia. Other parts of the armed force of the country, military and maritime, were already at his disposal for certain purposes. Both or either may be directed against insurrectionists by land and by water. A blockade is used for the purpose of shutting up ports by armed

vessels. Whatever other efforts may be resorted to within the State which is in a course of insurrection, this is the true mode of acting from without. Other nations have adopted and enforced the right to blockade their own ports to suppress insurrection, and courts of justice have in more instances than one recognised the act. Foreign nations cannot complain that there are peculiarities in the blockade as to ourselves. It is a war measure as to them at the best, although only exercised as a government power against rebellious citizens. Whether Congress has declared war or not, war exists, and that is enough for the world at large. All that we are bound to do is to take care that adequate force is applied, and that we are not indulging in a mere proclamation or paper blockade, such as set the nations of Europe once into mutual remonstrance and controversy. If it be not actual and capable of defeating all attempts to break it, foreign nations have a right to complain. Rebels have nothing to do with that, and they will naturally strive to evade or defeat it by stratagem or force if they can. Blockade is one of the many measures resorted to for the purpose of resisting rebellion. Defence is taken in the shape of action, as well as passive and quiet endurance and mere protection of home, and it ventures of necessity abroad without abandoning its nature or its name. Should we draw in our head and limbs like the land tortoise, and cover ourselves with a shell, in helpless imbecility?

(3)
Writ of
Habeas
Corpus
5-11/1861.

The writ of habeas corpus, it is said, has been suspended under the sanction or authority of the President. The Constitution says little on the subject of this important writ. It simply declares that "the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it." It is not declared in terms that this power of suspension is vested in Congress. It is fair to acknowledge that the phrase just quoted is found in that part of the Constitution which treats especially of the powers of Congress and denials of power to that body. It has been repeatedly alleged, by the best constitutional writers, that Congress has this power, and, so far as that may have a bearing upon the questioned power in the President, it must be regarded as settled. But it is stated at the same time, that "no suspension of the writ has ever been authorized by Congress since the establishment of the Constitution." (3 Story's Commentaries, 209.) It is yet a new thing. Mr. Jefferson expressed a decided objection against the power to suspend in any case whatever. He sent a message to Congress on the occasion of the supposed treasonable conspiracy of Aaron Burr. A motion was made in the Senate for a committee to consider the expediency of suspending the writ. A bill was reported for the purpose, which passed the Senate. It was rejected in the House of Representatives by 113 to 19 votes. Whether the President possesses this power may be

considered an open question. The occasion for suspending the writ is declared by the Constitution to be "when in cases of rebellion or invasion the public safety may require it." Light may be derived from certain provisions in the Act of Congress of February 28, 1795. The President is authorized to call forth the militia "when the United States shall be invaded or be in imminent danger of invasion," &c. A like authority is given to him "whenever the laws of the United States shall be opposed or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings," &c. Under this law, it has been decided by the Supreme Court, that the authority to decide whether the exigency has arisen belongs exclusively to the President. The exigency provided for is about as great in the one case as the other; and no greater stretch of authority would be exercised in suspending the writ of habeas corpus than in calling out the militia. The question still recurs, does the authority to suspend the writ, which is inferred to exist in Congress, vest that authority in Congress alone? There does not appear to be any good reason why such should be the case. There are long intervals between sessions of Congress. These are likely to be much prolonged by the late substitution of annual for daily pay. Constant emergencies may arise during such intervals when suspension should take place. Rebellion may be fierce, invasion

may be overwhelming, the public safety may be in imminent and immediate danger. The necessity for a remedy of this precise character may not brook delay. The President, as commander-in-chief, has the best opportunities, as well to judge of the emergency, as to apply on the instant the remedy. Each of the two branches of the government may possess the power of suspension without interference with the other. In the case of Aaron Burr we have seen that the popular branch of the legislature may have omitted to do its duty.

The Constitution does not deny the power to the President. It confers it on Congress only by implication. The power to suspend is distinctly recognized: and it is not in terms restricted to Congress. In the wide range of executive power comprising that of seeing "that the laws be faithfully executed," this might well be embraced. It is a limited power. The privilege of the writ cannot be abrogated. It can only be suspended. Treason may have lurked in secret until it formed large and dangerous combinations, which, upon being detected, must be instantly checked. A bold traitor, after arrest, may recur to magistrate after magistrate clothed with judicial functions, and after different refusals to interfere in his behalf, may find at length a willing confederate even on the seat of justice. All of these alleged assumptions of authority and prerogative, and others of less magnitude, but depending upon similar principles,

present in greater or less degree new questions, which are discussed with agitated feelings through the country, and opposite ultimate opinions. The responsible legal officer of the government gave his official opinion, on this point last mentioned, decidedly in favor of the executive power, and this must be considered as conclusive upon him. The Chief Justice is said to have expressed himself otherwise. Neither can be said to form a precedent or authority for all cases, while both are entitled to respect.

There is one view, in place here, which ought not to be overlooked. The late Chief Justice Tilghman said, that points sometimes presented themselves to a court of justice, which, finding no precedent in the books, and yielding strong arguments on both sides, must still be decided. The decision either way would form a rule for the future. Justice would be done in any event. Yet one party would lose and the other would gain. The public good on the one side, or a possibility of evil on the other, may lead the way; and the Court, acting honestly, decides for the best, giving its reasons that might have occasioned the preponderance. Now, in the great questions before the nation, if logic and argument are unable to control, and precedent and authority are wanting, the beam of the scales of justice may be influenced by obvious duty to the general weal, involving, perhaps, the very existence of the republic. No right is interfered with, and no wrong is promoted. The Execu-

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tive acts referred to have stayed the progress of treason. They are plainly the result of honest patriotism, and they will, notwithstanding the cavils of casuistry and the moanings of rebellion, be sustained, supported and approved by all who, unprejudiced by interest or morbid sensibility, and unaffected by local attachments, desire the safety and happiness of the people.

While the course of treason has become only too palpable, and its want of all pretext not less obvious, explanations have been attempted at different times quite foreign from the truth. Even the stale complaint of supposed interference with slavery has continued to linger in suggestion, and has not been without acknowledgment in high quarters. Mr. Buchanan, in his last annual message, overlooking the threatening issues and even the fearful facts of the moment, strangely imputes the prevailing discontent, as he calls it, to "the long continued and intemperate interference of the northern people with the question of slavery in the Southern States." At that moment—for the message bears date December 3d, 1860—the flagrant war on one side had been begun, and its flagrant causes, both remote and proximate, were universally understood. Both the war, which had been carried on in South Carolina for several weeks, and for defence against which he had been appealed to by the commanding general in October, and its causes, were, to use a common word,

*Palpable Cause of Secession
in the protest message to Mr.
Buchanan.*

utterly ignored by him. As to slavery, while he asserts it to be the cause of the prevailing discontent, and admits that "the fugitive slave law has been carried into execution in every contested case since the commencement of the present administration," he trusts "that the State Legislatures will repeal their unconstitutional and obnoxious enactments." And adds: "Unless this shall be done without unnecessary delay, it is impossible for any human power to save the Union." The real character of what he calls discontent, which was actual war, was quite forgotten. There had been irritation, indeed, on the broad subject of slavery, and sometimes men of the best standing from the east were compelled to leave the region where it prevailed. But the persons who, as abolitionists, proclaimed and practiced opposition to it, were comparatively few in number, and altogether inefficient in power and position, as to the general government. They never were in reality countenanced by any branch of that government, and were either frowned on or laughed at by the masses, at least in the Middle States. This exaggerated view of the danger from opposition to slavery was like the alarm spread in Virginia by the miserable little raid of John Brown, which fear or fancy swelled into an armed invasion of thousands. Mr. Adams, indeed, with his passion for the right of petition, persisted, against every mark of disapprobation, in what even his age and high standing could not redeem from dis-

Slavery has been a pretext for deeply seated hatred, lying deeply in the bosoms of those sufficiently inflamed, & ready to be aroused.

gust, until there was in contemplation a vote of censure in the House of Representatives. The same experienced statesman presented from his State an application for measures for the repeal of that part of the Constitution which gives a three-fifths representation on account of slaves. He united with one other member, Mr. Giddings, in a minority report in favor of the change. It never came before the House for a vote. Long since that time, an individual Senator has launched forth his anathema against slavery. A personal assault, made on him in his seat after adjournment, seemed to prove that where offence was really given and felt on that subject, it was likely to be followed by summary revenge. If there had been much serious cause of irritation farther north than Washington, the Southern chivalry would have followed it into such remoter latitude. It has been probably little more than a pretext for deeply seated hatred, lying deeply in the bosoms of those who are always sufficiently inflamed and ready to be aroused. It was from no indisposition to make farther assaults that they did not seek the enemy wherever he might be found. They could attack Fort Sumter a thousand to one. No abolition was there, but it belonged to the government, and that was sufficient provocation. They were prepared and disposed for war, and they knew that the intended victims and future adversaries had made no adequate preparation for defence. Time and opportunity were not to be lost. A Federal

fort lost would be a secession gain : and the first step was taken in a State, in the only State, where rebellion was already ripe.

A few weeks only elapsed after the fall of Fort Sumter in honorable defeat and inglorious victory, when seven other States made their official demonstration. The steps were altogether aristocratic, and the people had then, and have had since, little if any thing to do with them. On the 11th of January, publication was made in the *National Intelligencer* of the proceedings of a Disunion caucus held in Washington, by the Secession Senators from Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Texas. It was communicated to the editors by a distinguished Southern gentleman, an ex-member of Congress, who derived his knowledge from undoubted sources, and authorized the publishers to state, as they did, that he held himself responsible either to the public or to the parties implicated, to any one of the latter of whom his name might be given, for the accuracy of his statements and the justice of his inculpations. The charge is dated January 9th. It states the meeting to have been held the preceding Saturday night. The publication proceeds thus : "It was then and there resolved in effect to assume to themselves the political power of the South, and to control all political and military operations for the present. They telegraphed, to complete the plan of seizing forts, arsenals, and custom houses, and advised

the State Conventions now in session, and soon to assemble, to pass ordinances for immediate secession; but in order to thwart any operations of the government here, the Conventions of the seceding States are to retain their representatives in the Senate and the House." These, as Mark Antony says, in relation to conspirators of a former day, were "all—all honorable men." They also advised, ordered, or directed, the assembling of a Convention of delegates from the seceding States at Montgomery, on the 13th of February. They resolved to take the most effectual means to dragoon the Legislatures of Tennessee, Kentucky, Missouri, Arkansas, Texas, and Virginia, into following the seceding States. Maryland was also to be influenced by appeals to popular passion, &c., &c. Well might it be said at the time that these startling statements deeply concerned not only the welfare but the honor of the Southern people. A more high-toned and less popular kind of government than was thus shadowed forth never was erected or imagined. No ratification by the people was thought of. Delegates were to be sent to a provisional and a permanent government. The proceedings of this caucus serve to exhibit an extraordinary combination of artifice, presumption, and boldness. That it should have met with any success is scarcely less extraordinary. It seems to have been followed with acquiescence in the South. Such a result is strange anywhere, but it is passing strange that there should be

in the Northern cities victims of the delusion, and some who are friendly to the usurpation which distracts the whole country, and is doing all it can to involve it in utter ruin. This may in some degree account for the fact that so many at least unfortunate or unwise acts of commission and omission have marked the course of the government, and those whom it has employed. From the wanton destruction of national property at Norfolk, through a series of exposures to masked batteries and other unperceived and unsought dangers anywhere and everywhere, to the fatal and absurd sequence of the Bull Run engagement, with futile attempts at blockade, and exposure and peril, if not absolute loss, of commerce on every sea, almost every thing has been a blunder, which is as bad as a crime. Want of wisdom appears to have been the order of the day. It would almost seem as if the gods had maddened to destroy. For the mischiefs that are past there is no remedy. If a lesson of wisdom has been taught by dear bought experience, it will yet require many triumphs before the calamities that have occurred can be sufficiently atoned for. We may rest assured that nothing but brilliant and successful exhibitions in the field can restore us to the proud condition we held at the beginning of the war, or make the way smooth for the complete defence which is our end and aim. It is a melancholy fact that much has been lost of character as well as life, of confidence in the best of

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causes, which has been brought into jeopardy by almost fatal mismanagement.

Notwithstanding this confession, we have yet every thing to hope for in the still indignant spirit of the people against the outrages which have accompanied the course of rebellion, after prompting it to begin. There was a want of common honesty in the mere secession of those States that were bought by the Union with money, and still more obviously in those which were redeemed from savage warfare, with the blood and treasure of the whole. Millions were expended for purchase, and a hundred millions for defence and protection. The ill-gotten gains of Texas, and Florida, and Louisiana, and the States that have been multiplied under their wings, will remain an opprobrium to their present and future inhabitants, who only in loyalty to the Union could be entitled to the privileges of citizenship. The vast expenditures were a public contribution, but especially for the benefit of those by whom they have been repudiated. On the 21st of May, it was enacted by the rebel Congress that all persons in any manner indebted to individuals or corporations in the United States (except the border States) were prohibited from paying the same to their respective creditors or their agents or assigns, during the existing war.

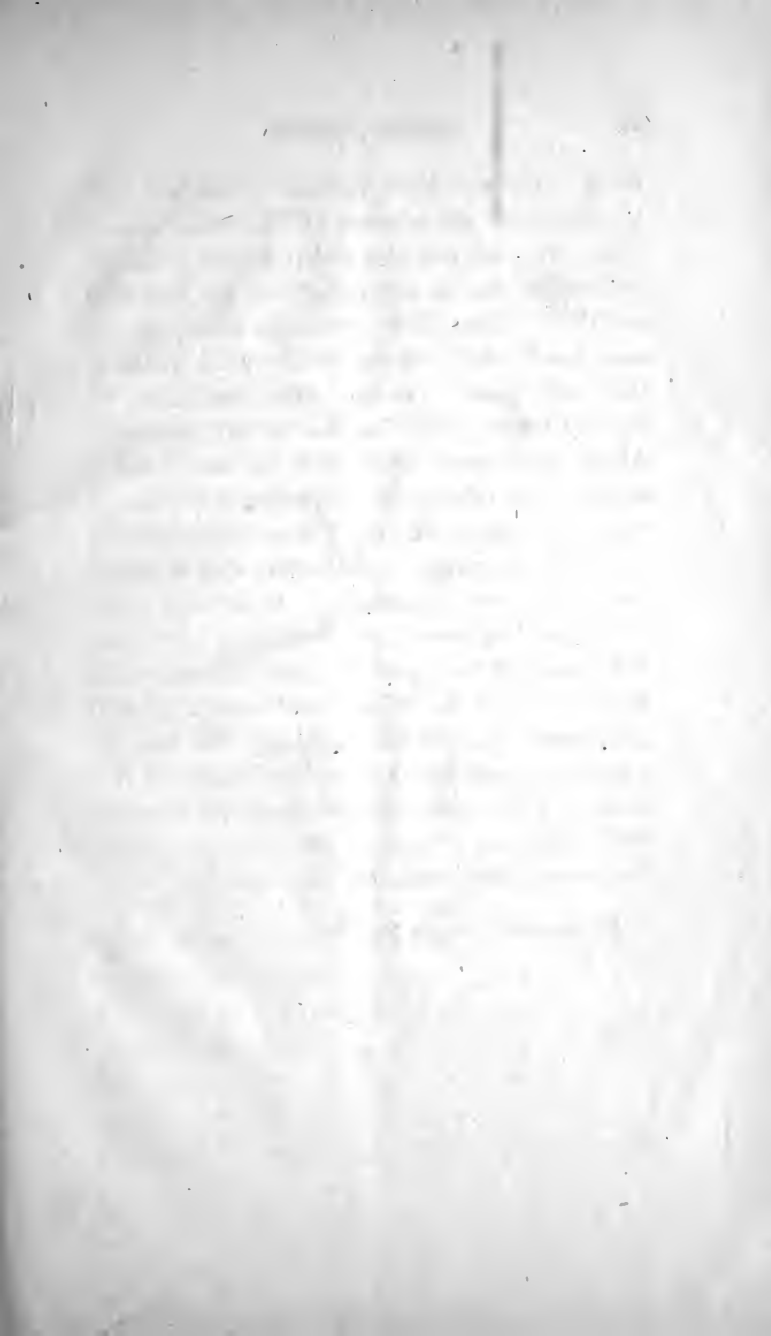
A word is here due as to the manner in which the present administration was formed. The election had been of a character both partizan and sectional.

This tendency, in the peculiar and critical state of the country, should have ceased with the election. In times of great trial, against a common enemy, party considerations are unbecoming and dangerous, and they should be put aside for the single cultivation of the public good. The exhibition at Washington on the 4th of March was unhappily far otherwise. Nothing but party seems to have been consulted in the formation of a cabinet. No one had a right to dictate to the President a choice of his constitutional advisers. But it so happened that more than one of the places had been filled towards the close of the late administration with signal ability and success. The brief control of the War Department had gone far to rescue the Government from general reproach, as it had, by promptness and energy, rescued the Federal City from the peril of being captured. Things had speedily assumed a becoming shape, and prospects of prosperity were smiling. A continuance only was wanting in this happy course. Party turned aside, and blindly filled the important offices. We say nothing at present of the actual incumbent. Let his subsequent fortunes be his judges. If in this great controversy all is to be lost, and the sun of the Republic is to be set in mourning clouds, the nation, the world, and history will impute the loss of every thing dear to man to the pernicious sway of party.

At least one farther subject for remark remains on the side which we have endeavored to explain and

justify. The great rivers that lead towards the Gulf of Mexico are the property of the whole country alike. They are necessary outlets for the commerce of the lakes, and are indispensable to the Northwest and West. These rivers have been stolen, like the money and other property of the United States, by the ruthless hand of Treason. More than half of the national territory now lies west of the Mississippi. About half a dozen loyal States are washed by its waters. It is tributary to the prosperity of Pennsylvania and Ohio, as well as of those immediately on its shores. It belongs to these rather than to such as have for a season its possession. If all other causes of defence from Southern encroachment and wrong were in an evil hour to be abandoned, this free right to the rivers of the West would remain a sacred pledge to be observed and vindicated. Mr. Everett's historic speech at New York on the Fourth of July winds up its comprehensive and conclusive argument with all that can be said on this particular subject. We leave it there with entire confidence.

Philadelphia, August 20, 1861.





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